



Judy Y. Lee  
*Attorney*

November 10, 2003

Mary L. Cottrell, Secretary  
Department of Telecommunications and Energy  
One South Station  
Second Floor  
Boston, MA 02110

Re: D.T.E. 03-98 – Petition for Dispute Resolution on behalf of Towns of Franklin  
and Swampscott

Dear Secretary Cottrell:

On behalf of Massachusetts Electric Company (“Company”), I am enclosing for filing one (1) original and eight (8) copies of the Company’s Answer to the Petition for Dispute Resolution in D.T.E. 03-98. I am also enclosing for filing one (1) original Certificate of Service. Thank you very much for your time and attention to this matter.

Very truly yours,

Judy Y. Lee

cc: William Stevens, Hearing Officer  
John Shortsleeve, Esq.  
Joseph Rogers, Esq.

25 Research Drive  
Westborough, MA 01582-0099  
508.389.2562 Fax: 508.389.2463  
judy.y.lee@us.ngrid.com

**COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

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Petition of the Towns of Franklin and Swampscott, )  
pursuant to G.L. c. 164, § 34A, for approval by the )  
Department of Telecommunications and Energy )  
to resolve a dispute between the Towns )  
and Massachusetts Electric Company, )  
with respect to the Towns' purchase of )  
street lighting equipment. )  
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D.T.E. 03-98

**ANSWER OF  
MASSACHUSETTS ELECTRIC COMPANY**

Pursuant to 220 C.M.R. 1.04(2), Massachusetts Electric Company ("Mass. Electric" or the "Company") files this Answer to the Petition for Dispute Resolution ("Petition"), dated October 15, 2003, submitted to the Department of Telecommunications and Energy ("Department") by the Towns of Franklin and Swampscott ("Petitioners"). As discussed below, the Department should grant the Petitioners' request for review of the issues raised in the Petition and find that Mass. Electric has calculated the purchase prices for streetlights and associated equipment ("Streetlight Facilities") in accordance with the Department's directives in D.T.E. 01-25. The Department should deny the Petitioners' other requests for relief.

**A. INTRODUCTION AND EXECUTIVE SUMMARY**

Background

The Petition is the unfortunate culmination of over seven months of extensive discussion, negotiation, and correspondence between the parties regarding the acquisition of the Streetlight Facilities in Franklin and Swampscott. On February 19, 2003 and February 24, 2003, Mass.

Electric received notices from Franklin and Swampscott, respectively, stating that they wished to purchase certain Streetlight Facilities (these notices are collectively referred to herein as “Acquisition Notices”).<sup>1</sup> Mass. Electric also received related information requests from the Petitioners at that time. In order to complete the acquisition of the Streetlight Facilities, the parties needed to finalize the purchase prices for the Streetlight Facilities (“Purchase Prices”), a Purchase and Sale Agreement, and a License Agreement setting out the parties’ respective responsibilities subsequent to the Petitioners’ purchase of the Streetlight Facilities. Over the course of the following seven months, up to the time that the Petition was filed, Mass. Electric met with the Petitioners and/or their consultant John Shortsleeve of Bay State Consultants (“Consultant”) eight times, exchanged extensive written and electronic correspondence, and spoke regularly on the phone. The parties successfully finalized the Purchase and Sale Agreement and License Agreement in September 2003 to their mutual satisfaction, but could not reach agreement on the Purchase Prices.

This impasse has primarily centered on Mass. Electric’s implementation of the directives contained in the Department’s August 14, 2001 letter order in D.T.E. 01-25 (“D.T.E. 01-25”) and Petitioners’ refusal, through their Consultant, to accept that Mass. Electric had calculated the Purchase Prices appropriately. Throughout the parties’ attempts to conclude the purchase of the Streetlight Facilities, Mass. Electric has endeavored to provide the Petitioners with the most

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<sup>1</sup> Differences in the interpretation of the sixty-day notice period allotted by G.L. c. 164 § 34A may result in misunderstandings between utilities and municipalities. Mass. Electric believes that there is a distinct difference between a purchase price inquiry and an Acquisition Notice. A purchase price inquiry is a preliminary step that a municipality seeking to evaluate whether the purchase of Streetlight Facilities is in its best interests should take. In such a case, the municipality begins its determination of whether to purchase Streetlight Facilities. In contrast, when a municipality provides notice, pursuant to G.L. c. 164 § 34A, to the Company of its intent to purchase utility-owned and maintained streetlights, Mass. Electric presumes that the municipality has completed its review and has determined that this option is in its best interest. During the sixty-day notice period allotted by G.L. c. 164 § 34A, municipalities and utilities may finalize all details involved in the conversion of Streetlight Facilities, including the execution of the Purchase and Sale and License Agreements, payment of the Purchase Price as calculated consistent with D.T.E. 01-25, transfer of title of the Streetlight Facilities from the utility to the municipality, and conversion to service pursuant to the alternative streetlight tariff.

accurate and reliable information possible and to furnish whatever assistance Petitioners requested of Mass. Electric, so that Petitioners would have the knowledge required to evaluate their purchase decision thoroughly. As described below, any delays experienced by the Petitioners during the previous seven months were of their own making, caused by the countless and repetitive requests of Consultant for the same information that had already been provided by Mass. Electric and Consultant's lack of forthrightness in dealing with Mass. Electric.

#### Calculation of Purchase Prices

The Department set forth the methodology for calculating the purchase price of the streetlight plant in a given community in D.T.E. 01-25. Following this methodology, Mass. Electric applies annual depreciation rates, approved by the Department in general rate cases, to arrive at the unamortized values of the plant in-service for the period of time the streetlight plant has been in-service according to Mass. Electric's Asset Management System, a computerized subsidiary system that details all of the Company's plant investment reported on its balance sheet. If the streetlight plant has been in-service longer than the estimated useful life upon which the depreciation rates are based, the unamortized values of the streetlight plant are allowed to become negative. In addition, Mass. Electric has retirement data of its streetlight plant by community dating back to 1964, including the original year of addition and related cost of the plant addition, and these values are depreciated in the same manner as the depreciation of plant in-service. This results in a comparable unamortized value of retired streetlight plant as is calculated above for streetlight plant in-service. D.T.E. 01-25 provided that if the utility had a record of retirements for its streetlight plant as identified by community, the value of those retirements were to be factored into the Purchase Price.

Mass. Electric allocates these values to all plant, both municipal and private, being served in the respective community to determine the per-unit prices. The community's total Purchase Price is then determined based on the number of units serving the community, multiplied by the unit prices. Using this methodology, Mass. Electric calculated final Purchase Prices of \$430,951.75 for the Town of Franklin and \$209,450.67 for the Town of Swampscott and provided them to the Petitioners on May 22, 2003 and April 17, 2003, respectively.<sup>2</sup> Mass. Electric also provided the Petitioners with back-up documentation substantiating these calculations.

#### Discussions Regarding the Purchase Prices

Throughout the seven month period, the Consultant has continued to insist that the Purchase Prices be negotiated. Mass. Electric disagrees, noting that in D.T.E. 01-25, the Department set out a methodology that must be used to determine the Purchase Price of Streetlight Facilities.<sup>3</sup> Mass. Electric believes that the existence of different price quotes for the Streetlight Facilities gave rise to the Petitioners' misunderstanding that the Purchase Prices are negotiable. The existence of different price quotes resulted from Mass. Electric's use of a different method of calculation, however, prior to D.T.E. 01-25. The Purchase Prices for the Petitioners' Streetlight Facilities are higher under D.T.E. 01-25 than they are pursuant to the

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<sup>2</sup> Prior to the provision of final purchase prices on these dates, Mass. Electric had provided preliminary purchase prices to the Petitioners, subject to change pending Mass. Electric's completion of a final audit of the Streetlight Facilities.

<sup>3</sup> In fact, contrary to the Petitioners' claims, Mass. Electric presented its D.T.E. 01-25 methodology to Department staff prior to implementing it in order to receive constructive feedback from the Department and to ensure that Mass. Electric was not misinterpreting D.T.E. 01-25. On September 25, 2001, Mass. Electric met with several members of the Department's staff regarding Mass. Electric's implementation of D.T.E. 01-25, including Ronald Lecomte, Director of the Electric Power Division; Kevin Brannelly, Director of Rates and Revenue Requirements; Sean Hanley, Assistant Director of Rates and Revenue Requirements; and Paul Afonso, in his capacity as General Counsel for the Department.

previous methodology that the Company used, which was consistent with D.T.E. 98-89, a prior streetlight ruling, and depended upon depreciation studies prepared for Mass. Electric by a depreciation consultant (“Prior Methodology”). Any Purchase Prices provided by Mass. Electric prior to the issuance of D.T.E. 01-25 on August 14, 2001 were calculated using the Prior Methodology. This has led the Petitioners to argue that D.T.E. 01-25 “reaffirmed the essential holding in D.T.E. 98-89” (Petition, Issues in Dispute, paragraph 65), but this is simply untrue. Significant differences exist between the Prior Methodology and the Department’s directives in D.T.E. 01-25. For example, D.T.E. 01-25 requires an annual application of depreciation rates for streetlight plant that differs from Mass. Electric’s prior use of a depreciation study. It also requires the provision of negative unamortized values, and allows the inclusion of the unamortized value of streetlight plant retirements specific to the municipality, if available. Although Petitioners believe that Mass. Electric’s implementation of the directives in D.T.E. 01-25 is inconsistent with the Department’s ruling in that docket, Petitioners neglect to show how Mass. Electric’s current Purchase Price methodology fails to comply with D.T.E. 01-25.

Throughout the seven-month period leading up to the Petition filing, the Consultant asked for additional data and explanations of Mass. Electric’s calculations. Mass. Electric provided all information that it had. Nevertheless, perhaps anticipating a different response, the Consultant continued to press, both orally and in writing, for information that Mass. Electric had told the Consultant was not available due to the nature of the Company’s information systems or information that Mass. Electric had already provided to the Consultant. For example, the Consultant requested installation date and vintage information for the Streetlight Facilities in writing at least five times. See Petition, Exhibit B, page 4 – Consultant’s letter dated March 11, 2003. “[I]t is essential to our due diligence that we know the installation dates of the streetlights

in both communities.” See Petition, Exhibit C, page 165-66 – Consultant’s letter dated July 23, 2003. “We would like to renew the request that we made on March 11, 2003 for the annual additions to total streetlight plant (retired and non retired) since 1944. . . .” See Petition, Exhibit A, page 2 – Town of Franklin Acquisition Notice dated February 7, 2003. “Please provide the average vintage of these 1,622 streetlights.” See Petition, Exhibit B, page 4 – Consultant’s letter dated March 11, 2003. “The only information regarding vintage that we have so far, is the information provided by Mass Electric in the form of computerized streetlight inventories.” See Petition, Exhibit C, page 166-67 – Consultant’s letter dated July 23, 2003. “We would like to renew the request the request that we made on March 11, 2003 for this vintage information regarding all of the streetlights (municipal and private) in both communities. . . . We do think . . . that the purchase price will be reduced if you include . . . an allocation based on the relative vintage and therefore depreciation of different categories of streetlights. . . .”

Mass. Electric informed the Consultant in no uncertain terms that Mass. Electric could not provide the installation information of the Streetlight Facilities because it did not maintain such records within its information systems and that Mass. Electric had provided the Consultant with all of the vintage information Mass. Electric had available on its systems. See Petition, Exhibit C, page 66 – Mass. Electric letter dated March 28, 2003, Franklin & Swampscott 1-4 Response. “The Company does not maintain records within its street light inventory system that tracks the number of street lighting facilities installed or removed for a particular year.” See Petition, Exhibit B, page 18 – Mass. Electric letter dated August 5, 2003. “[T]he Company has provided you with complete information regarding streetlights in Franklin and Swampscott. We have no additional information.” See Petition, Exhibit B, page 9 – Mass. Electric letter dated April 2, 2003. “We gave you all of the vintage year information that we have in Attachments 1A

(Franklin) and 1B (Swampscott) of our March 28, 2003 response.” See Petition, Exhibit B, page 20 – Mass. Electric letter dated August 5, 2003. “As stated repeatedly in our prior responses, the Company does not maintain vintage information by size and type of light, but rather maintains information at the aggregate level. We have provided you with all available community information at an aggregate level . . . . We are unable to provide the requested vintage information by light size and type, because we cannot provide information that we do not possess.”

Mass. Electric regrets that instead of working with Mass. Electric in good faith to resolve the Purchase Price impasse, the Consultant exhibited a lack of forthrightness in dealing with Mass. Electric. In meetings and in written correspondence, the Consultant alleged several times that Mass. Electric was withholding relevant information and alluded to the Petitioners’ possession of analyses that supported the Petitioners’ argument for dramatically decreased Purchase Prices for the Streetlight Facilities, but stated that it was not in the Petitioners’ best interest to share this information with Mass. Electric. See, e.g., Petition, Exhibit C, page 167. As explained above, Mass. Electric provided all information it had available to the Consultant. To date, the Consultant has still not provided the background support and assumptions underlying these analyses, thus denying Mass. Electric the opportunity to address the analyses in any meaningful manner and hopefully resolving this matter amicably and without Department involvement. The Consultant’s activities culminated in the proposed alternative purchase price methodology described in the Consultant’s letter dated August 14, 2003. See Petition, Exhibit B, pages 25-27. In this letter, the Consultant proposed a revenue allocation, post sodium-vapor conversion, attributing ninety percent of the value relating to streetlight activity to private streetlights, and ten percent to municipal streetlights. As Mass. Electric explained in its



September 4, 2003 letter, this proposal had no reasonable basis to stand on, when approximately eighty percent of all streetlights in any given community are municipal streetlights and streetlight activity is not merely limited to the replacement of street lighting fixtures. See Petition, Exhibit B, pages 28-30.

### Conclusion

In conclusion, Mass. Electric calculated the Purchase Prices for the Streetlight Facilities in conformance with D.T.E. 01-25, and analyzed its calculations and assumptions in great detail with the Consultant. Mass. Electric has endeavored to help Petitioners through the acquisition process, and has made substantial resources available to respond to Consultant's many requests. Mass. Electric regrets that the Petitioners' desire to purchase Streetlight Facilities has ended up before the Department for dispute resolution, but is confident that it has calculated the Purchase Prices appropriately and otherwise worked with Petitioners diligently and responsibly.

## **B. MASS. ELECTRIC'S ANSWERS TO THE NUMBERED PARAGRAPHS OF THE PETITION**

As to the specific claims set forth in the Petition, Mass. Electric responds to the numbered paragraphs of the Petition as follows:

### RESPONSE TO PETITIONERS

1. Mass. Electric lacks knowledge sufficient to respond to this Paragraph 1.
2. Mass. Electric lacks knowledge sufficient to respond to this Paragraph 2.

### RESPONSE TO JURISDICTION

3. This paragraph of the Petition sets forth a legal conclusion that does not require a

response.

## RESPONSE TO FACTS

4. Mass. Electric lacks knowledge sufficient to determine whether the Petitioners mailed the Acquisition Notices on February 7, 2003. Mass. Electric admits the receipt of a Acquisition Notice dated February 7, 2003 from Franklin via first-class mail on February 19, 2003. Mass. Electric further admits the receipt of a Acquisition Notice dated February 7, 2003 from Swampscott via e-mail on February 24, 2003.
5. Mass. Electric admits that the Petitioners made a request for the parties to meet on an expedited basis to discuss the considerable issues raised in the Acquisition Notices. However, Mass. Electric assumes that, prior to submitting the Acquisition Notice, a municipality and its consultants have completed all the necessary due diligence in support of the decision to convert the streetlights. Mass. Electric believes that the sixty-day period allotted by G.L. c. 164 § 34A was intended to be used by municipalities and utilities to finalize all details relating to the conversion of the Streetlight Facilities, including the transfer of title of the assets from the utility to the municipality. This time period was not intended to be an opportunity for municipalities, after providing Acquisition Notices, to begin their due diligence activities and determine whether or not purchasing the assets was in their best interests.
3. Mass. Electric admits that correspondence was exchanged with the Petitioners on March 4, March 11, March 28, April 1, April 2, April 17, May 12, May 22, June 5, July 3, July 23, August 5, August 8, August 14, September 4, September 9, and September 25, 2003.<sup>4</sup>
4. Mass. Electric admits that the parties met for discussion / negotiations at Mass. Electric's offices in Northborough and Westborough, Massachusetts on March 7, April 3, April 25, May 8, May 12, July 24, August 7, and September 5, 2003.
5. Mass. Electric admits that several telephone calls as well as e-mail exchanges took place throughout this period of time.
6. Mass. Electric admits that the parties finalized the Streetlight Facilities License Agreement and the Purchase and Sale Agreement (excluding Purchase Prices) on or around September 9, 2003.
7. Mass. Electric denies the allegation set forth in this Paragraph 7. Mass. Electric and Petitioners have not "negotiated" the Purchase Prices of the Streetlight

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<sup>4</sup> The numbering sequence in Mass. Electric's Answer tracks that of the Petition to prevent confusion on the part of the reader. The numbering of the Petition runs from 1 to 5, then starts over again with 3 and continues in normal sequential order to 71.

Facilities, because the Purchase Prices are not subject to “negotiation” as that term is commonly understood. The purchase price for the sale of streetlight facilities is not arrived at through negotiation. Rather, the purchase price should be determined through the use of a nondiscriminatory, unbiased, and fair method. By its directives in D.T.E. 01-25, Mass. Electric believes that the Department’s intent was to prescribe such a method in calculating a purchase price for streetlight assets that was fair to both utilities subject to G.L. c. 164, § 34A as well as to communities who wish to exercise their rights under the same provisions of the law. Mass. Electric believes that to the best of its abilities and given the information and data available, it has implemented a method that is consistent with the Department’s directives. The Purchase Prices provided to the Petitioners are the amounts Mass. Electric requires in order to recoup the value of its streetlight investments, calculated in accordance with the directives set forth in D.T.E. 01-25 using available information and data.

8. Mass. Electric admits that the Purchase Prices for the Streetlight Facilities are not negotiable. See response to Paragraph 7 *supra*.
9. This paragraph of the Petition sets forth a legal conclusion that does not require a response.
10. Mass. Electric admits that, prior to the receipt of the Petitioners’ Acquisition Notices, preliminary Purchase Prices of \$208,984 and \$209,450 were provided to Swampscott in January 2003 and March of 2003, respectively, as starting points to be used in their due diligence.
11. Mass. Electric admits that Purchase Prices of \$366,228; \$482,796; \$431,492; and \$430,951 were provided to Franklin in June 2001; January 2002; March 4, 2003; and May 22, 2003, respectively.
12. Mass. Electric admits that the Purchase Price of \$366,228.14, not \$366,290 as stated incorrectly in this Paragraph 12, provided to Franklin in June 2001 represented the unamortized investment of Mass. Electric’s inventory of 1,613 streetlights and associated equipment in Franklin, calculated using the Prior Methodology. Mass. Electric does not possess information sufficient to determine how Petitioners arrived at a figure of \$366,290 as of June 25, 2001 for the aforementioned assets.
13. Mass. Electric denies the allegation set forth in this Paragraph 13. The Purchase Price of \$366,228.14, not \$366,290 as stated incorrectly in this Paragraph 13, provided to Franklin in June 2001 was calculated using the Prior Methodology.
14. Mass. Electric admits that it provided a Purchase Price of \$482,796 to Franklin in January 2002, not June 30, 2001, as stated incorrectly in this Paragraph 14. Mass. Electric further admits that this figure represented the unamortized investment of Mass. Electric’s inventory of 1,622 streetlights and associated equipment in

Franklin as of January 2002.

15. Mass. Electric admits that the Purchase Price of \$482,796 provided to Franklin in January 2002 was calculated in accordance with the directives set forth in the order issued in D.T.E. 01-25.
16. Mass. Electric admits that Franklin's Acquisition Notice requested clarification regarding the methodology used to calculate the Purchase Price and the reasons for the change in Purchase Price. As Mass. Electric explained in its letter dated March 4, 2003 to Franklin responding to the Acquisition Notice, the initial Purchase Price provided to Franklin was calculated using the Prior Methodology. Mass. Electric did not state the Purchase Price was calculated in accordance with D.T.E. 98-89. The final Purchase Price, which superseded all Purchase Prices previously provided to Franklin, was calculated in accordance with the directives from the order issued in D.T.E. 01-25.
17. Mass. Electric admits that it agreed to provide, during a March 7, 2003 meeting with the Consultant at Mass. Electric's offices in Northborough, Massachusetts, written clarification of the calculations resulting in the \$366,290 Purchase Price provided in June 2001, calculated using the Prior Methodology, and the \$482,796 Purchase Price provided in January 2002, calculated in accordance with the order issued in D.T.E. 01-25.
18. Mass. Electric admits that it stated in an April 2, 2003 letter to the Consultant that giving Petitioners "a detailed explanation of the [sic] how the different methodologies would determine the purchase price . . . [was not] warranted." See response to Paragraph 19 *infra*.
19. Mass. Electric denies the allegations set forth in this Paragraph 19. Mass. Electric has been straightforward in its explanations of the current Purchase Price methodology, and has, during the course of several meetings and phone calls, discussed the differences between the Prior Methodology and the current Purchase Price methodology with the Consultant. More importantly, Mass. Electric believes that Petitioners' due diligence efforts should focus on the current Purchase Prices provided in accordance with D.T.E. 01-25. Any Purchase Prices provided to Petitioners prior to the issuance of the order in D.T.E. 01-25 are moot. Mass. Electric also wishes to point out that Bay State Consultants was a party to D.T.E. 01-25 and thus, would be familiar with the 01-25 methodology and the ways in which it differs from any previous methodologies.
20. Mass. Electric admits that Petitioners requested in their Acquisition Notices, March 11, 2003 correspondence, and July 23, 2003 correspondence, information relating to the dollar value of additions, retirements, and depreciation per year. Mass. Electric provided the requested information in the form of Attachments 1A and 1B to its March 28, 2003 response. See Petition, Exhibit C, pages 69-108. See also response to Paragraph 23 *infra*.

21. Mass. Electric admits that Petitioners requested in their Acquisition Notices, March 11, 2003 correspondence, and July 23, 2003 correspondence, vintage information regarding the installation dates of the streetlights and the relative age of municipal as opposed to private streetlights. Mass. Electric has provided all available information to Petitioners. The Consultant has made a practice of asking for this information repeatedly, perhaps anticipating a different answer. Mass. Electric has not withheld any information from the Petitioners or their Consultant. See response to paragraph 23 *infra*.
22. Mass. Electric admits that it is unable to provide information regarding the annual streetlight additions, retirements, or depreciation taken, or the vintage of the municipal or private streetlights, because Mass. Electric does not keep data at that level for its streetlight assets, which are considered mass plant in accordance with the Federal Energy Regulatory Commission Code of Federal Regulations. Mass. Electric maintains its streetlight plant data at the aggregate level, and does not maintain streetlight plant data at the specific asset level (i.e. information based on the specific asset that is located at a particular location in the field). The foregoing has been communicated to the Consultant several times. Mass. Electric has provided to Petitioners all of the detailed information available. See response to Paragraph 23 *infra*.
23. Mass. Electric lacks information to admit or deny the allegations set forth in this Paragraph 23. Mass. Electric challenges earlier allegations that the data provided to Petitioners was insufficient for their purposes, since Petitioners were able to rely on Mass. Electric's data to reach the conclusions advanced by Petitioners. See responses to Paragraphs 20, 21, and 22 *supra*.
24. Mass. Electric admits that it received, via e-mail on July 24, 2003, spreadsheets purporting to show, in a reorganized format, the Purchase Price data that Mass. Electric provided to the Petitioners. Mass. Electric denies that the spreadsheets indicated the analysis was performed by Stone and Webster.
25. Mass. Electric lacks information to admit or deny the allegations set forth in this Paragraph 25.
26. Mass. Electric lacks information to admit or deny the allegations set forth in this Paragraph 26.
27. Mass. Electric denies the allegations set forth in this Paragraph 27 to the extent that Petitioners suggest that Mass. Electric did not provide all available data and hid gaps in the data. Mass. Electric has consistently communicated to the Consultant that its implementation of D.T.E. 01-25 relies on current plant investment by vintage year, representing all additions to the town that have not since been retired. In this case, the oldest additions that have not been retired are for 1963. Mass. Electric does not have information available to quantify additions

for the period of 1914 to 1963. The additions that could be ascertained for that period were limited to what Mass. Electric could derive from its retirement records dating back to 1964. For example, if Mass. Electric retired a \$100 asset in 1964 that had a 1950 vintage, Mass. Electric could then conclude it had an addition of \$100 in 1950.

28. Mass. Electric admits that its records of annual plant activity can be established from 1964 to the present for retirements and 1963 to the present for additions. This fact has been communicated to the Consultant on several occasions.
29. See response to Paragraph 28 *supra*. Mass. Electric admits that the plant, not Purchase Price, data provided to Petitioners does not report or utilize pre-1963 additions that have yet to be retired. At present, Mass. Electric's Asset Management System's oldest recorded streetlights were installed in 1963.
30. See response to Paragraph 28 *supra*. Mass. Electric admits that the plant, not Purchase Price, data provided to Petitioners does not report or utilize pre-additions during the period from 1914 to 1963. At present, Mass. Electric's Asset Management System's oldest recorded streetlights were installed in 1963. Mass. Electric admits that the plant, not Purchase Price, data provided to Petitioners does not report or utilize the additions prior to 1914 that were retired prior to 1963.
31. Mass. Electric denies the allegation set forth in this Paragraph 31.
32. Mass. Electric admits that meetings with the Consultant were held on July 24 and August 7, 2003, and that a single meeting with the Petitioners and the Consultant was held on September 5, 2003. All meetings were held in Mass. Electric's offices in Northborough, Massachusetts. Mass. Electric further admits that during these meetings, the parties discussed the Purchase Prices and the Petitioners' objections to Mass. Electric's Purchase Price methodology, and the Petitioners and/or the Consultant attempted to persuade Mass. Electric to offer lower Purchase Price quotes.
33. Mass. Electric agrees that the Petitioners objected to the value represented by the streetlight plant activity in the respective communities.
34. Mass. Electric denies the claim set forth in this Paragraph 34. The Stone and Webster analysis for the additions activity aggregates lines 1996 through 2002 to be \$298,914, but this is incorrect. The Stone and Webster analysis double counts the account 106 information contained in Petition, Exhibit C, p 69, line 1, since this information is already captured in Petition, Exhibit C, p 170, line for year 2002. Thus, the correct figure for the period in question, as reflected by the data provided by Mass. Electric, is \$265,380.60.
35. Mass. Electric denies the allegation set forth in this Paragraph 35 and urges the

Department to reject the facile assumption presented by Petitioners. Plant activity is not merely restricted to the replacement of street lighting fixtures, as Petitioners suggest. Plant additions represent activity related to new streetlight requests, replacements due to failure (end-of-life and pre-mature failure), replacements due to upgrades (requests for lower or higher wattages), replacements due to damage (e.g., vandalism, storm, vehicular), and public safety requirements. In addition, the above-mentioned activity represents more than mere fixture replacements, but also accounts for all materials, labor, and equipment associated with providing complete street lighting services to support overhead and underground service levels.

36. Mass. Electric denies the claim set forth in this Paragraph 36. The Stone and Webster analysis for the additions activity aggregates lines 1994 through 2002 to be \$187,577, but this is incorrect. The Stone and Webster analysis double counts the account 106 information contained in Petition, Exhibit C, p 92, line 1, since this information is already captured in Petition, Exhibit C, p 174, line for year 2002. Thus, the correct figure for the period in question, as reflected by the data provided by Mass. Electric, is \$167,888.36.
37. Mass. Electric denies the allegation set forth in this Paragraph 37. See response to paragraph 35 *supra*.
38. Mass. Electric admits that wholesale replacement of street lighting fixtures has not been requested or sanctioned by the Petitioners since the completion of the sodium conversion in each town, but emphasizes that Mass. Electric's data does not lead to the conclusion that such activity has taken place.
39. Mass. Electric does not possess information sufficient to determine whether the Petitioners have or do not have any "basis for reaching any conclusions regarding the additions and retirement activity regarding private streetlights." However, Mass. Electric does not maintain or differentiate streetlight plant data at the municipal and private levels, but rather maintains its records in the aggregate at the town level.
40. Mass. Electric admits that new streetlights are being installed in new developments on private streets that have not been accepted by Franklin, and Mass. Electric is working to ascertain the level of this activity. Mass. Electric has requested the assistance of the municipality in this endeavor.
41. Mass. Electric agrees that Franklin has indicated a desire to purchase the municipal streetlights on the publicly accepted streets in the town and not the private streetlights on the private streets, and in fact, Franklin does not have the right to purchase streetlights that are billed to non-municipal customers.
42. Mass. Electric admits the existence of recent additions activity relating to private streetlights in Franklin, but underscores that the exact level of activity has yet to

be determined. The process of making this determination requires the coordinated effort of both the town and Mass. Electric.

43. Mass. Electric admits that Alex Mango, Director of Outdoor Lighting, has offered to work with Franklin to address the existence of new streetlights on private streets in developments whose streets have not been accepted by Franklin. Mass. Electric stresses the importance of the shared responsibility held by Mass. Electric and Franklin regarding development activity in the town.
44. Mass. Electric denies the claim set forth in this Paragraph 44. Mass. Electric believed that Franklin had expressed its willingness to resolve this issue jointly.
45. Mass. Electric admits that the private streetlights located in new developments whose streets have not been accepted by Franklin are not included in the town's Acquisition Notice and are not part of the proposed streetlight conversion. In fact, Franklin does not have the right to purchase streetlights that are billed to non-municipal customers.
46. Mass. Electric denies the allegation set forth in this Paragraph 46. Mass. Electric's Purchase Price methodology does not allocate plant value between municipal lights and private lights based on the revenue generated by those lights. Rather, Mass. Electric determines the unamortized value applicable to street lighting facilities serving municipal accounts by deriving the per unit unamortized value for each street lighting facility within the town using all of the street lighting facilities in the town, since plant records do not distinguish Mass. Electric's investment in street lighting facilities between municipal and private. The process uses an allocation based on the revenue of the luminaire or pole by type and size. Once these per unit values are calculated, Mass. Electric applies them to the street lighting facilities that the town wishes to convert, by type and size. The remaining unamortized value is associated with the street lighting facilities serving non-municipal customers and street lighting facilities that the town does not wish to convert.
47. Mass. Electric admits that its Purchase Price methodology does not allocate plant value between municipal lights and private street lighting facilities based upon the age and depreciation of the streetlights. Mass. Electric's plant data is maintained at the aggregate level (en masse) and does not differentiate between municipal and private lights. Mass. Electric is therefore unable to allocate plant value in the manner suggested by Petitioners in this Paragraph 47.
48. Mass. Electric admits that, between two streetlights generating the same revenue, Mass. Electric's Purchase Price methodology prices all streetlights of the same size and type at the same level. Mass. Electric's streetlight plant records do not differentiate the age of individual streetlight components in order to arrive at a unique price for each streetlight facility subject to purchase. However, Mass. Electric's Purchase Price methodology is consistent with the directives in the



order issued in D.T.E. 01-25 and uses all available information and data.

49. Mass. Electric admits that it has stated repeatedly to the Consultant, both in meetings and in letters, that a vintage-based allocation methodology is not possible because Mass. Electric does not maintain streetlight plant records at the specific asset level required for a vintage-based allocation methodology. Mass. Electric also proffers that private, non-municipal lights, also share the conversion costs that were driven solely by municipal lights. With over 80% of all lights on average in each town being municipal, it is logical to assume that the majority of streetlight activity would be related to municipal lights.
50. Mass. Electric admits that the wholesale replacement of street lighting fixtures has not been requested or sanctioned by Swampscott since the completion of the sodium vapor conversion in the town, but emphasizes that Mass. Electric's data does lead to the conclusion that such activity has taken place.
51. Mass. Electric admits that the wholesale replacement of street lighting fixtures has not been requested or sanctioned by Franklin since the completion of the sodium vapor conversion in the town, but emphasizes that Mass. Electric's data does not lead to the conclusion that such activity has taken place.
52. Mass. Electric admits that on August 8, 2003, the day after the August 7 Purchase Price meeting, Mass. Electric provided to the Petitioners the tax net book value of the streetlights and signal systems in Franklin as of December 31, 1997.
53. Mass. Electric admits that the tax net book value of the streetlights and signal systems in Franklin as reported by Mass. Electric was \$611,923 as of December 31, 1997.
54. Mass. Electric admits that it did not own any signal systems in Franklin in 1997, and thus, the tax net book value of \$611,923 was calculated on the basis of the net book value of the streetlights in Franklin only as of December 31, 1997.
55. Mass. Electric admits that the Stone and Webster analysis of Mass. Electric's Purchase Price data shows a tax net book value calculation of \$723,913 as of December 31, 1997, but denies the accuracy of this analysis.
56. Mass. Electric denies the allegation set forth in this Paragraph 56. Mass. Electric has repeatedly explained to the Consultant that the reason for \$111,990 difference between the unamortized investment on the company's tax books and the unamortized investment calculated for streetlight sale purposes is due to the fundamental differences between the calculation of the unamortized investment of the streetlights consistent with D.T.E. 01-25 and that used for property tax reporting purposes.
57. Mass. Electric denies the allegation set forth in this Paragraph 57. When the

Petitioners refused to accept the Purchase Price methodology Mass. Electric implemented consistent with the directives in D.T.E. 01-25, Mass. Electric did not request that the Petitioners prepare a counterproposal regarding the Purchase Price methodology. Rather, the proposal for an alternative method to allocate plant value between private and municipal lights was a suggestion made by the Consultant that Mass. Electric agreed to review. Mass. Electric also maintains that the proposal was not comprehensive and made unreasonable and arbitrary percentage allocation assumptions, proposing that 90% of the post sodium vapor conversion additions and post sodium vapor retirements be allocated to private streetlights, and 10% to municipal streetlights, when on average approximately 80% of all streetlights in any given town are municipal streetlights.

58. Mass. Electric admits that it rejected the Petitioners' proposal, and believes that a counterproposal was not warranted in light of the defects contained in Petitioners' proposal. See response to Paragraph 57 *supra*. Nothing in Petitioners' proposal supported a change to Mass. Electric's Purchase Price methodology.
59. Mass. Electric denies the allegation set forth in this Paragraph 59. Mass. Electric determined that it was appropriate and reasonable to revise its calculation of Purchase Prices to be in accordance with directives contained in the order issued in D.T.E. 01-25, using all available information and data. Mass. Electric believes that its Prior Methodology was consistent with D.T.E. 98-89 and did not change its Prior Methodology after the issuance of the letter order in D.T.E. 98-89. In fact, the Prior Methodology used net streetlight plant information that was identical to the net streetlight plant data reported for property tax purposes. However, the order in D.T.E. 01-25 clearly rejected this manner of determining the purchase price for streetlights as it "(1) automatically increases the selling price of streetlights by a cost for early retirements whether or not early retirement actually took place in the towns; (2) causes the selling price to be influenced by factors extraneous to the towns; and (3) does not permit over-depreciated streetlights to have a negative value."<sup>5</sup> Therefore, purchase prices calculated for tax compliance purposes and calculated in accordance with other methodologies can and will differ from those values calculated consistent with D.T.E. 01-25, but calculations performed in accordance with other methodologies are not germane to the streetlight conversions at issue.
60. Mass. Electric admits that it has continued to collect depreciation expenses pursuant to the rates contained in its streetlight tariffs.
61. Mass. Electric lacks information to admit or deny the allegations in this Paragraph 61.
62. Mass. Electric lacks information to admit or deny the allegations in this Paragraph 62.

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<sup>5</sup> D.T.E 01-25, August 14, 2001, page 6

63. Mass. Electric does not possess information sufficient to determine whether the Stone and Webster analyses support a value of \$252,683 for Franklin and \$32,855 in Swampscott for Mass. Electric's unamortized investment as of September 1, 2003.

#### RESPONSE TO ISSUES IN DISPUTE

64. Mass. Electric denies the allegation contained in this paragraph of the Petition. Mass. Electric maintains that the Purchase Prices of \$430,951 provided to Franklin and \$209,450 provided to Swampscott represent Mass. Electric's unamortized investment of the streetlight facilities in those respective towns, and were determined consistently with D.T.E. 01-25.
65. Mass. Electric admits that the parties disagree on the significance of the holdings in D.T.E. 98-89 and D.T.E. 01-25. D.T.E. 98-89 has been superseded by D.T.E. 01-25, and Mass. Electric calculates its Purchase Price pursuant to DTE 01-25.
66. Mass. Electric denies the allegations contained in this paragraph of the Petition. Mass. Electric denies that D.T.E. 01-25 authorized Mass. Electric to "increase the streetlight purchase price above the un-amortized values" calculated using its prior methodology. As a result of the ruling in D.T.E. 01-25, Mass. Electric made changes to its Prior Methodology to be consistent with D.T.E. 01-25. Mass. Electric has made every effort to comply with the directives in this order. Mass. Electric also asserts that D.T.E. 01-25 sets forth the proper method for calculating the value of streetlight conversions, not D.T.E. 98-89.
67. Mass. Electric denies the allegations contained in this paragraph of the Petition. Mass. Electric denies that D.T.E. 01-25 authorized Mass. Electric to "increase the streetlight purchase price above the un-amortized values" calculated by Mass. Electric for tax compliance reasons. Mass. Electric recognizes that the streetlight Purchase Price and tax compliance values will be mutually exclusive.
68. Mass. Electric denies the allegations contained in this paragraph of the Petition. Mass. Electric does not believe that it has permission under any statute to assess older and more depreciated municipal lights with the net book value of newer and less depreciated private streetlights. As previously stated, Mass. Electric's streetlight plant records do not differentiate the age of individual streetlight components in order to arrive at a unique price for each streetlight facility subject to purchase. However, Mass. Electric's Purchase Price methodology is consistent with the directives in the order issued in D.T.E. 01-25 and uses all available information and data.

## RESPONSE TO PETITIONERS REQUEST FOR RELIEF

69. Mass. Electric welcomes the Department's review of its current D.T.E. 01-25 Purchase Price methodology. Mass. Electric requests that the Department specifically affirm that Mass. Electric is implementing the Department's directives in D.T.E. 01-25 correctly.
70. Mass. Electric respectfully requests that the Department deny this request for relief. Petitioners' proposal is not consistent with D.T.E. 01-25. In addition, Petitioners' proposal is not comprehensive; makes arbitrary allocation assumptions, allocating 90% value to private streetlights and 10% to municipal streetlights when approximately 80% of streetlight facilities in a municipality are municipal streetlights; and does not provide any analytical details to support the proposal. Mass. Electric also maintains that any such analysis cannot solely be based on the post sodium vapor conversion periods, but rather, would need to account for pre- and post-sodium conversion periods, as additions and retirements during a sodium vapor conversion are attributable exclusively to municipal streetlights, and therefore this direct assignment would also need to be reflected in any analysis.
71. Mass. Electric respectfully requests that the Department deny this request for relief. Without any explanation or supporting documentation explaining the analysis, the assumptions made, and the methodology used, the value of the analysis is unclear. It is evident, however, that the Purchase Prices proposed in the analysis are not consistent with D.T.E. 01-25.

Respectfully submitted,  
MASSACHUSETTS ELECTRIC COMPANY  
By its attorney,

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Judy Y. Lee

25 Research Drive  
Westborough, MA 01582  
(508) 389-2562 (phone)  
(508) 389-2463 (fax)

Dated: November 10, 2003

**COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

	)	
	)	
Petition of the Towns of Franklin and Swampscott,	)	
pursuant to G.L. c. 164. § 34A, for approval by the	)	
Department of Telecommunications and Energy	)	D.T.E. 03-98
to resolve a dispute between the Towns	)	
and Massachusetts Electric Company,	)	
with respect to the Towns' purchase of	)	
street lighting equipment.	)	
	)	
	)	

**CERTIFICATE OF SERVICE**

I hereby certify that I served a copy of Massachusetts Electric Company's Answer to the Petition for Dispute Resolution in D.T.E. 03-98 by first-class and electronic mail in accordance with the requirements of 220 C.M.R. 1.05 to:

John Shortsleeve  
Attorney for the Towns of Franklin and Swampscott  
Bay State Consultants  
70 Bailey Boulevard  
Haverhill, MA 01830

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Judy Y. Lee  
MASSACHUSETTS ELECTRIC COMPANY  
25 Research Drive  
Westborough, MA 01582  
(508) 389-2562 (phone)  
(508) 389-2463 (fax)

Dated: November 10, 2003